

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

REBECCA M.,

Plaintiff,

-v-

6:24-CV-1108

FRANK J. BISIGNANO,
Commissioner of Social Security¹

Defendant.

APPEARANCES:

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DAVID N. HURD
United States District Judge

OF COUNSEL:

HOWARD D. OLINSKY, ESQ.

JASON P. PECK, ESQ.

¹ Frank J. Bisignano was sworn in as the Commissioner of Social Security on May 7, 2025.

ORDER ON REPORT & RECOMMENDATION

On September 13, 2024, plaintiff Rebecca M. (“plaintiff”) filed this 42 U.S.C. § 405(g) action seeking judicial review of a final decision of the Commissioner of the Social Security (“Commissioner” or “defendant”) denying her application for Supplemental Security Income (“SSI”). Dkt. No. 1. Along with her complaint, plaintiff moved for leave to proceed *in forma pauperis* (“IFP Application”). Dkt. No. 2.

On September 25, 2024, U.S. Magistrate Judge Mitchell J. Katz granted plaintiff’s IFP Application, Dkt. No. 7, and a briefing schedule was set. Dkt. No. 5. The parties then filed their respective memoranda—treated as motions for judgments on the pleadings under Federal Rule of Civil Procedure (“Rule”) 12(c) pursuant to General Order 18. Dkt. Nos. 9, 10.

On May 19, 2025, Judge Katz advised by Report & Recommendation (“R&R”) that plaintiff’s request to vacate the final decision of the Commissioner be granted, that defendant’s motion be denied, and that the case be remanded for further administrative proceedings. Dkt. No. 12. Briefly stated, Judge Katz advised that that the Administrative Law Judge (“ALJ”) improperly evaluated the medical opinion of plaintiff’s treating psychiatrist. *Id.* at 9.² Judge Katz also advised that the ALJ erroneously

² Pagination corresponds to CM/ECF headers.

relied on certain treatment notes. *Id.* at 14. Judge Katz further advised that the ALJ failed to clearly explain how plaintiff's treating psychiatrist's findings regarding plaintiff's diagnosis for paranoia were unsupported by the record. *Id.* at 17. Namely, Judge Katz reasoned that the ALJ failed to assess a psychiatric opinion of a different health provider before concluding that plaintiff's treating psychologist's findings were inconsistent with the record.³ *Id.* at 16. Judge Katz also advised that the ALJ's decision was not harmless. *Id.* at 21.

Plaintiff has not lodged objections and the time to do so has passed. Dkt. No. 12.

Upon review for clear error, Judge Katz's R&R will be adopted in all respects. *See* FED. R. CIV. P. 72(b).

Therefore, it is

ORDERED that

1. The Report & Recommendation (Dkt. No. 12) is ACCEPTED;
2. Plaintiff's motion for judgment on the pleadings (Dkt. No. 9) is

GRANTED;

3. Defendant's motion for judgment on the pleadings (Dkt. No. 10) is

DENIED; and

³ Indeed, Judge Katz advised that the ALJ relied on treatment notes regarding *physical* ailments, not *mental* illness, in rendering this conclusion. Dkt. No. 12 at 16.

4. The decision of the Commissioner is hereby REVERSED and REMANDED under sentence four of 42 U.S.C. § 405(g).

The Clerk of the Court is directed to terminate the pending motion, enter a judgment accordingly, and close the file.

IT IS SO ORDERED.



David N. Hurd
U.S. District Judge

Dated: June 4, 2025
Utica, New York.